

# United States District Court

## District of Hawaii

JUL 18 2005

at 9 o'clock and 30 min. 1 M.T.  
SUE BEITIA, CLERK

UNITED STATES OF AMERICA

v.

FONO LUAPO ATIGA

**JUDGMENT IN A CRIMINAL CASE**

(For Offenses Committed On or After November 1, 1987)

Case Number: 1:04CR00336-001USM Number: 95275-022

Shanlyn Park, AFPD

Defendant's Attorney

**THE DEFENDANT:**

- ☒ pleaded guilty to counts: 1 and 2 of the Indictment.
- ☐ pleaded nolo contendere to counts(s) \_\_\_\_ which was accepted by the court.
- ☐ was found guilty on count(s) \_\_\_\_ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
See next page.			

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on counts(s) \_\_\_\_ and is discharged as to such count(s).
- ☐ Count(s) \_\_\_\_ (is)(are) dismissed on the motion of the United States.

It is further ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

JULY 8, 2005

Date of Imposition of Judgment

Signature of Judicial Officer

SUSAN OKI MOLLWAY, United States District Judge

Name &amp; Title of Judicial Officer

JUL 15 2005

Date

SCANNED

AO 245B (Rev. 12/03) Sheet 1 - Judgment in a Criminal Case

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## ADDITIONAL COUNTS OF CONVICTION

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC 2244(a)(2), 2246(3), 2242(2)(B), and 49 USC 46506(1)	Sexual contact with another person while aboard an aircraft	8/17/04	1
18 USC 2244(a)(2), 2246(3), 2242(2)(B), and 49 USC 46506(1)	Sexual contact with another person while aboard an aircraft	8/17/04	2

AO 245B (Rev. 12/03) Sheet 4 - Probation

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### PROBATION

The defendant is hereby placed on probation for a term of TWENTY SIX (26) MONTHS

This term consists of TWENTY SIX (26) MONTHS as to each of Counts 1 and 2, to be served concurrently.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of commencement of supervision and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon (Check if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check if applicable.)
- ☒ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check if applicable.)

If this judgment imposes a fine or restitution, it is a condition of probation that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow instructions of the probation officer;
- 4) the defendant shall support his or her dependants and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

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### SPECIAL CONDITIONS OF SUPERVISION

1. That the defendant provide the Probation Office and the Financial Litigation Unit of the U.S. Attorney's Office access to any requested financial information to include executing all financial disclosure forms, and submitting to periodic debtor's examinations as directed by the Probation Office.
2. That the defendant may change his residence only with advance approval of the Probation Office.
3. That the defendant is to participate in sex offender assessment and treatment and follow the policies and procedures of the program which may include plethysmograph, polygraph and other types of testing as approved by the Probation Office.
4. That the defendant must spend a total of 30 days in intermittent confinement. That confinement shall be divided as follows: 28 days is the first increment of intermittent confinement. Defendant is then allowed to be out of prison for 24 hours, after which he must return to prison and stay in another 24 hours which will cover two calendar days. That last increment, covering the two calendar days will serve as his second increment of two days in intermittent confinement .
5. That the defendant serve 8 months of home confinement, home detention with electronic monitoring as arranged by the Probation Office. During this time, the defendant shall remain at his place of residence except with the advance approval of his Probation Officer. The eight month period will begin to run upon the completion of the total of 30 days of intermittent confinement. During this period of home detention, the defendant shall wear an electronic monitoring device and follow the provisions of the Participant's Agreement, which he must sign. He will abide by those and he may be assessed the costs of the electronic monitoring program as determined by the Probation Office.
6. Defendant to have no contact with the victim, Cherish Schwenke, for the entire period of probation.
7. That the defendant is to report to MCC San Diego by 10 a.m. on July 13, 2005.

AO 245 S (Rev. 12/03) Sheet 5, Part B - Criminal Monetary Penalties

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**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

Totals:	<u>Assessment</u> \$ 200.00	<u>Fine</u> \$ 2,000.00	<u>Restitution</u> \$
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- ☐ The determination of restitution is deferred until . An *Amended Judgment in a Criminal Case* (AO245C) will be entered after such a determination.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. §3664(i), all non-federal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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<b>TOTALS</b>	\$ _	\$ _
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- ☐ Restitution amount ordered pursuant to plea agreement \$ \_
- ☐ The defendant must pay interest on restitution and a fine of more than \$2500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. §3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ the interest requirement is waived for the ☐ fine ☐ restitution
- ☒ the interest requirement for the ☒ fine ☐ restitution is modified as follows:

Interest is waived while the defendant is serving his term of imprisonment and shall commence to accrue on any remaining balance upon his release from intermittent confinement.

AO 245 S (Rev. 12/03) Sheet 5, Part B - Criminal Monetary Penalties

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### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☐ Lump sum payment of \$ \_ due immediately, balance due  
☐ not later than \_ , or  
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below, or
- B ☒ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_ (e.g., weekly, monthly, quarterly) installments of \$ \_ over a period of \_ (e.g., months or years), to commence \_ (e.g., 30 or 60 days) after the date of this judgment ; or
- D ☐ Payment in equal \_ (e.g., weekly, monthly, quarterly) installments of \$ \_ over a period of \_ (e.g., months or years), to commence \_ (e.g., 30 or 60 days) after the release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:  
 That the fine of \$2,000 is due immediately and any remaining balance is due, if he cannot pay the whole amount immediately, when he completes his total of 30 days of intermittent confinement during the period of probation on an installment basis according to the collection policy of the Probation Office but at a rate of not less than 10 percent of his monthly gross income.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number, Total Amount, Joint and Several Amount, and corresponding pay, if appropriate.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.